

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 31**

LOS ANGELES FILM SCHOOLS, LLC,  
d/b/a THE LOS ANGELES FILM SCHOOL  
and LA FILM SCHOOL  
and

LOS ANGELES RECORDING SCHOOL, LLC,  
d/b/a THE LOS ANGELES RECORDING SCHOOL,  
LOS ANGELES RECORDING SCHOOL, and THE LOS  
ANGELES RECORDING SCHOOL, LLC  
A Single Employer,<sup>1</sup>

and

Case No. 31-RC-8796

CALIFORNIA FEDERATION OF TEACHERS,  
Petitioner,

**DECISION AND DIRECTION OF ELECTION**

On February 4, 2010, the California Federation of Teachers (Union or Petitioner), filed a petition in Case 31-RC-8796 under Section 9(c) of the National Labor Relations Act, as amended, seeking to represent a unit composed of employees employed in various classifications at Los Angeles Film School, LLC (LAFS) and Los Angeles Recording School, LLC (LARS).<sup>2</sup>

---

<sup>1</sup> The name of the Employer appears in the caption as amended at hearing and as corrected to reflect the finding herein of single employer status.

<sup>2</sup> The Petition described the unit inclusions as Los Angeles Film School's Course Director, Associate Course Director, Assistant to the Head of Production, Head of Production, Industry Specialist, Instructor and all other non-supervisory education positions; and Los Angeles Recording School's Instructor and all other non-supervisory education positions. At the hearing, the parties agreed that the Head of Production should be excluded as a supervisory employee and that the Associate Course Director should be included as a nonsupervisory employee.

On March 11, 18, 22 and 23, 2010, a hearing was held on the referenced petition. The issues presented at the hearing were:

- 1) Whether LAFS and LARS constitute a single employer and/or joint employers;
- 2) Whether the employees of LAFS and LARS should be in one unit or two separate units;
- 3) Whether employees in the following job classifications should be excluded from the unit because they are supervisors within the meaning of Section 2(11) of the Act: Course Director and Assistant to the Head of Production; and
- 4) Whether the Course Directors and/or the Assistant to the Head of Production are managerial employees who should be excluded from the unit.

It is the Petitioner's position that LAFS and LARS are a single employer and/or joint employers and that the single unit the Petitioner seeks to represent is an appropriate unit. The Petitioner further contends that the two named classifications are not supervisory and/or managerial and should be included in the unit.

It is the position of LAFS and LARS that they are two separate companies and do not constitute joint employers and/or a single employer. LAFS and LARS contend that even if they were deemed to be joint employers and/or a single employer, a single unit would be inappropriate because the unit should be divided into two units: one for LAFS employees and one for LARS employees. Finally, LAFS and LARS contend that the two named classifications are supervisory and/or managerial and that they should be excluded from the unit.

For the reasons set forth in Section V below, I conclude the following:

- 1) LARS and LAFS are a single employer;<sup>3</sup>
- 2) The petitioned-for unit is an appropriate unit;
- 3) The Course Directors with direct reports<sup>4</sup> are supervisors within the meaning of Section 2(11) of the Act and I will exclude them from the unit.

---

<sup>3</sup> LAFS and LARS will be jointly referred to in this Decision as the Employer.

<sup>4</sup> As described below, certain Course Directors, all of whom are in the Film Department at LAFS, have Instructors and/or Industry Specialists that report directly to them.

The other Course Directors and the Assistant to the Head of Production are not supervisors within the meaning of Section 2(11) of the Act and I will include these classifications in the unit;

- 4) Neither the Course Directors nor the Assistant to the Head of Production are managerial employees.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Upon the entire record in this proceeding, I find:

**I. HEARING OFFICER RULINGS:** The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

**II. JURISDICTION:** The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this matter.<sup>5</sup>

**III. LABOR ORGANIZATION:** The parties<sup>6</sup> stipulated and I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

---

<sup>5</sup> For the reasons discussed below in Section V, I find that LAFS and LARS are a single Employer. LA Film Schools, LLC, d/b/a the Los Angeles Film School and d/b/a LA Film School, is a California corporation with a facility located at 6363 Sunset Boulevard in Hollywood, California, where it is engaged in the business of providing educational instruction in media-related areas. Within the past twelve months, a representative period, LAFS's gross revenues exceeded \$1 million. During the same period of time, LAFS purchased and received goods and supplies valued in excess of \$5,000, directly from enterprises located outside the state of California.

Los Angeles Recording School, LLC, d/b/a The Los Angeles Recording School, Los Angeles Recording School, and The Los Angeles Recording School LLC, is a California corporation with a facility located at 6690 Sunset Boulevard in Hollywood, California, where it is engaged in the business of providing a certificate program in the recording arts. Within the past twelve months, a representative period, LARS's gross revenues exceeded \$1 million. During the same period of time, LARS purchased and received goods and supplies valued in excess of \$5,000, directly from enterprises located outside the state of California.

Based on the foregoing, I find that the Employer satisfies the statutory and the Board's discretionary standard for asserting jurisdiction over private schools. *Roman Catholic Archdiocese of Baltimore, 216 NLRB 249 (1975).*

<sup>6</sup> The Petitioner and Employer are collectively referred to as the "parties."

**IV. QUESTION CONCERNING COMMERCE:** A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.<sup>7</sup>

**V. APPROPRIATE UNIT:** The following employees of the Employer constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

**INCLUDED:** All full-time and regular part-time Course Directors; Assistant to the Head of Production; Associate Course Directors; Industry Specialists; and Instructors employed by the Employer, Los Angeles Film Schools, LLC, d/b/a The Los Angeles Film School and LA Film School and Los Angeles Recording School, LLC, d/b/a the Los Angeles Recording School, Los Angeles Recording School, and the Los Angeles Recording School, LLC at its facilities at 6353 Sunset Blvd., 6363 Sunset Blvd., 6690 Sunset Blvd. and 1605 Ivor Ave. in Los Angeles, California.

**EXCLUDED:** All other employees, guards and supervisors as defined in the Act (including Course Directors with Industry Specialists or Instructors directly reporting to them).

In analyzing the issues in this case, I will first provide a brief background, then specifically discuss the issues presented: whether LAFS and LARS are a single employer; whether a multi-facility unit is appropriate; and the supervisory and/or managerial status of disputed classifications.

#### **A. General Background**

Los Angeles Film Schools, LLC (LAFS) is a private post-secondary educational institution. Its mission is to educate students in the area of media arts. LAFS currently offers degrees in film, animation, game production, and recording arts to approximately 1000 students.

---

<sup>7</sup> The parties stipulated and I find there is no contract or any other bar that would preclude the processing of this petition.

LAFS is accredited by a company known as ACCSC to provide associate degrees. LAFS is located at 6363 Sunset Boulevard (6363 Sunset) in Los Angeles, California.

Los Angeles Recording School, LLC (LARS) is also an educational institution with a mission to educate students in the media field. LARS is accredited by a company known as ACCET and can offer certificates, but not degrees. LARS' current enrollment is approximately 300-400 students. LARS is located at 6690 Sunset Boulevard (6690 Sunset) in Los Angeles, California.

## **B. Single Employer Issue**

### **1. Facts Concerning the Relationship Between LAFS and LARS**

#### **a) Facilities**

There are four buildings located within approximately one half mile of each other that are related to LAFS and LARS. In addition to the 6363 Sunset and 6690 Sunset facilities, there is a facility located at 6353 Sunset Boulevard (6353 Sunset) and the Ivar Theater located at 1605 Ivar Avenue, which is across the street from the LAFS facility. As described below, at least three of the four facilities are used by both LAFS and LARS. There is a written facilities use agreement regarding each school's use of the other's facilities. According to the agreement, whenever a class for either school is over a certain size, it may be held in either the 6363 Sunset or the 6690 Sunset facility.

The 6363 Sunset facility has both classrooms and business offices and is used primarily, but not exclusively, by LAFS. There is one individual who works as the Vice President of Education (VP of Education) for both LAFS and LARS. He spends the majority of his time at this facility. Weekly management meetings are held at this location for Program Directors from both schools as well as representatives from departments that are responsible for students at both schools. The Career Development and Student Services departments, which provide services for students at both schools, are housed at the 6363 Sunset building. The purchasing department, which purchases materials for both schools, is housed in this building, as is the Director of Compliance, who is responsible for ensuring that both schools meet all accreditation requirements. The Film Sound class, which is attended by students from both LAFS and LARS, is held both in lab space at 6363 Sunset and in a lecture hall at 6353 Sunset.

The 6353 Sunset building is adjacent to the 6363 Sunset building. These two buildings are often referred to generally as being one facility. The 6353 building consists of classrooms, labs and office space. There is one individual who is both CEO and President (hereinafter the CEO) of both LAFS and LARS. The CEO works out of the 6353 Sunset building. The following departments which serve both LAFS and LARS are also housed in this building: Human Resources; Payroll; Information Technology; and Operations. Both LAFS and LARS use the classroom space in this building. LARS also uses a lab in the building.

The 6690 Sunset building is the primary location for LARS. It houses 19 studios and labs, 3 classrooms, and office space for the Director, Associate Director and the VP of Education. Student Services and Operations have office space in the building and there is a student lounge. LARS faculty share an area with three common desks and computers in this building. LAFS occasionally uses classroom space in this building.

The Ivar Theater is used by LAFS as a production space.<sup>8</sup>

b) Ownership, Management Structure, and Interrelation of Operations

LAFS was founded in 1998. It initially was owned by the CEO and her husband. In 2001, the CEO became LAFS's President and CEO. LAFS, a limited liability corporation, is presently owned by five separate entities.<sup>9</sup> In about 2003, the CEO and other investors<sup>10</sup> purchased an entity named the Los Angeles Recording Workshop, which later became LARS. Beginning about 2004 or 2005, the CEO assumed the role of President and CEO of LARS. Like LAFS, LARS is owned by a number of corporate entities;<sup>11</sup> however, the schools do not have any owner-entities in common.

LAFS and LARS are separate corporations with separate licenses. According to the CEO, the reason why there are separate corporations is that when the Los Angeles Recording Workshop was purchased, it was already a separate corporation. LAFS and LARS file separate tax returns and maintain separate financial statements, bank accounts and payrolls. Each of the

---

<sup>8</sup> While the CEO testified that she believed this facility was also used by LARS, she did not know for sure. The record does not indicate whether the CEO's belief is correct.

<sup>9</sup> The record does not disclose the identities of these entities.

<sup>10</sup> The record does not disclose the identities of these other investors.

<sup>11</sup> The record does not reflect who controls these entities.

schools has a Board of Co-Chairs that maintains separate corporate minutes. Each school's Board, however, is comprised of the same five individuals.<sup>12</sup> The schools have applied to make LARS a branch of LAFS, but that application was pending before the United States Department of Education at the time of the hearing in this matter. LAFS represents to the public that LARS is a branch of LAFS; similarly, LARS represents itself to the public to be a branch of LAFS. For example, on the LAFS website, LARS is represented to be a branch of LAFS.

As noted above, there is one individual who is the President/CEO of both LAFS and LARS. As the CEO/President of LAFS, the CEO reports to the Board for LAFS and is a member of that Board. As CEO/President of LARS, the CEO reports to the Board for LARS and is a member of the Board of LARS. As CEO, the individual confers with the Board of each school to set tuition for LAFS and LARS and ensures that each school complies with accreditation requirements. There is one COO of both schools.<sup>13</sup>

Under the CEO, there is an executive team of six individuals who supervise both schools: the VP of Education; the Head of Admissions; the Head of the Business Office; the Head of Financial Aid; the Head of Operations; and another individual.<sup>14</sup> The Head of Admissions, the Head of the Business Office, the Head of Financial Aid and the VP of Education are all employed by LAFS.<sup>15</sup> The two schools share a human resources department, an IT department, and a financial aid department. E-mail for employees of both LAFS and LARS is sent to individualized e-mail addresses at the domain @lafilm.com. The IT department maintains the common email system for both schools and there is a common Help Desk email address that both schools use to resolve computer and phone problems. The business office, which employs ten employees, compiles financial statements, takes in payments and oversees accounts for both schools. Although students make out checks to either LAFS or LARS, depending upon what school they are enrolled in, the checks are sent to the same business office. The two schools also share an admissions department and an operations department, which provides operational and facility support to both schools, such as issuing employee badges, purchasing computers, and

---

<sup>12</sup> The Boards of both LAFS and LARS are made up of the CEO, an individual who shares the CEO's surname, and three other unspecified individuals

<sup>13</sup> The position is currently vacant. The record does not indicate when the vacancy occurred.

<sup>14</sup> The record does not reflect the individual's position or department.

<sup>15</sup> The record does not reflect which entity employs the Head of Operations and the other individual.

building maintenance. The same admission counselors admit for both schools. These counselors report directly to the Head of Admissions. The CEO, who is CEO of both schools, supervises human resources, IT, the business office, admissions, operations support, and financial aid; the heads of these shared departments report directly to her. LAFS has an online education department that is headed up by the VP of Online Education. The schools share a Student Services Office and a Career Development Office. The Student Services Office tracks and manages student records, counsels and advises students, and provides other student support for students of both schools; the Career Development Office assists graduates of both schools learn how to find work and administers the internship program for both schools. The Director of Compliance, who works in Student Services, ensures that both schools meet accreditation requirements. The Purchasing Department buys class materials, textbooks, and other day-to-day items such as light bulbs for both schools.

Reporting directly to VP of Education are five Program Directors: the Program Director for LARS; the Program Director for the Film Program at LAFS; the Program Director for the Games Production Program at LAFS; the Program Director for the Computer Animation Program at LAFS; and the Program Director for the Online Education Department at LAFS. At LAFS there are 34 Course Directors who report to the Program Directors. There are 46 Industry Specialists and 7 Instructors that report to LAFS Course Directors.<sup>16</sup> At LARS, there are 31 Instructors and about 7 Course Directors who report directly to the Program Director for LARS.

The VP of Education is employed by both LAFS and LARS. He is the VP of Education for both LAFS and LARS and supervises both schools. He is officially on the payroll of one of the schools, and the other school reimburses the paying school for his services.<sup>17</sup> The VP of Education spends the majority of his time working at 6363 Sunset, the primary location for LAFS, but he often goes to 6690 Sunset, the primary location for LARS, to meet to discuss day-to-day operations, curriculum, faculty, facilities and any other aspect of the operations. The VP of Education has an office in both the 6363 Sunset and 6690 Sunset buildings. The VP of Education coordinates the facilities use process for both schools.

---

<sup>16</sup> The job duties of the Industry Specialists and the Instructors are the same; they are equivalent positions. The record does not reflect why different titles are used.

<sup>17</sup> The record does not reflect which school is the payor and which is the reimbursor.



There are weekly management meetings held at 6363 Sunset attended by Program Directors from both LAFS and LARS, the film department manager, individuals from student services and from career development, and the employee known as the Scheduler.

In general, the faculty and curriculum of each school are separate; however, there is some overlap. Students of both schools share a class called Film Sound. The lectures for that class are held at 6353 Sunset and the labs are held at 6363 Sunset. Enrollment in the course is about 50% LAFS and 50% LARS students. The Course Director for Film Sound is a LAFS employee. LAFS faculty teach at LARS on an as-needed basis, and vice versa.

Students enroll in either LAFS or LARS and are not enrolled in both schools at the same time. LARS students, who earn a certificate, can apply and have been accepted to LAFS after completion of their certificate to earn a degree.

c) Control over Labor Relations

Each of the schools has a separate handbook that governs the terms and conditions of employment with the named school. However, the language in both handbooks appears to be identical, with the exception of the name of the company in each respective handbook.

As set forth in the employee handbooks, both LAFS and LARS maintain the same eligibility requirements for health insurance coverage; utilize the same health, dental and vision insurance carriers; and extend insurance benefits to employees' domestic partners. The same Human Resources department processes these benefits. The schools offer employees the same number of sick days and the same vacation benefits. The two schools observe the same six holidays and maintain the same guidelines regarding earning and using compensatory time off. Employees at both schools are required to utilize accrued vacation time and other paid personal leave (except sick leave) for all family care and medical leaves.

According to the employee handbooks, employees are also subject to identical policies with respect to workplace conduct. At both schools, new employees are placed on a 90-day orientation period. Employment at both facilities remains "at-will" for the duration of employees' employment. Both schools have promulgated identical rules regarding employee conduct and prohibited conduct. At both schools, employees are directed to report incidents of harassment or workplace violence to the shared Human Resources Department.

With respect to payroll, timesheets for both schools are submitted to the Business Office and payroll is handled through a third-party vendor. There are wage ranges for employee classifications at both LAFS and LARS. The LARS salaries are slightly lower than LAFS. While the record did not establish who established the pay ranges for Industry Specialists and Instructors at the schools, or what the pay ranges were, the Co-Chairs of the Boards of both LAFS and LARS implemented a salary freeze for both schools.

Employees at both schools can raise grievances with the Human Resources Department or with their immediate supervisors. Employee performance reviews are conducted at similar intervals at both schools and use the same performance evaluation form, which was prepared by the Human Resources Department. At LAFS, Instructors and Industry Specialists are reviewed by their Course Director. In contrast, at LARS the Program Director evaluates the Instructors. The completed evaluations are then sent back to Human Resources and maintained in employee personnel files housed there. According to the employee handbooks, information derived from the performance appraisal is used to determine an employee's eligibility for merit salary increases, promotion and transfer or, alternatively, to identify training needs for the employee.

With respect to hiring, LARS Instructors are hired by the Program Director for LARS, and the hires are signed-off by VP of Education and the CEO. At LAFS, Instructors and Industry Specialists are hired by the Program Director except that in the LAFS Film Program, they are generally interviewed and hired by their Course Directors, with the approval of Program Director for the Film Program.<sup>18</sup> At both schools, the discharge of Instructors or Industry Specialists is handled between the Program Director and Human Resources.

## **2. Discussion Concerning Single Employer Status of LAFS and LARS**

The hallmark of a single employer is the absence of an arm's-length relationship among seemingly independent companies. *RBE Electronics of S.D.*, 320 NLRB 80 (1995); *Hydrolines, Inc.*, 305 NLRB 416, 417 (1991). The Board looks at four factors in making a finding on this issue: (1) interrelation of operations; (2) common management; (3) centralized control of labor relations; and (4) common ownership or financial control. *Central Mack Sales*, 273 NLRB 1268, 1271-1272 (1984). While the Board considers common control of labor relations a significant

---

<sup>18</sup> As explained below, only Course Directors in the Film Program at LAFS have Industry Specialists and/or Instructors reporting to them.

indication of single-employers status, *Beverly Enterprises*, 341 NLRB 296, 306 (2004), no single aspect is controlling, and all four factors need not be present to find single-employer status. Instead, the ultimate determination turns on the totality of the evidence in a given case. *Dow Chemical Co.*, 326 NLRB 288, 288 (1998).

a) Common Management

LAFS and LARS clearly have common management. Common management governing day-to-day matters is strong evidence of single employer status. *Mine Workers (Boich Min. Co.)*, 301 NLRB 872, 974 (1991). The CEO and President of both schools is the same individual. While each school has its own Board, the members on the Boards are the same, including the CEO. Reporting directly to CEO, there is an executive team of six individuals who supervise both schools: the VP of Education; the Head of Admissions; the Head of the Business Office; the Head of Financial Aid; the Head of Operations; and another individual. In addition, the same individual supervises the IT Department for LAFS and LARS. The Director of Compliance ensures that both schools meet accreditation requirements. The LARS Program Director and the LAFS Program Directors report directly to the VP of Education. The VP of Education meets with Program Directors and other managers of both schools on a weekly basis, discussing attendance policies, curriculum, and other day-to-day matters.

The Employer asserts that since the only common management at the schools exists at the level of the VP of Education, the CEO and the executive team, there can be no common management for the purposes of single employer analysis. The Employer cites *Alamo-Rent-A-Car*, 330 NLRB 897, 898 (2000) for the foregoing proposition. However, reliance upon *Alamo-Rent-A-Car* is misplaced. *Alamo-Rent-A-Car* involved a different issue: whether a petitioned-for multi-facility unit was appropriate, and not whether two entities were a single employer. *Id.* Furthermore, in *Alamo-Rent-A-Car*, the Board considered the fact that each facility had separate supervisors who all reported to a higher level general supervisor as indicating the existence of common management for the purposes of multi-facility analysis. *Id.*

b) Interrelation of Operations

LAFS and LARS have a clear interrelation of operations. At least three of the four facilities, located within approximately one half mile of each other, are used by both LAFS and LARS. Shared facilities are evidence of single employer status. See *Dahl Fish Co.*, 279 NLRB

1084, 1087 (1986) (shared use of facilities significant in finding single employer status). Under the written facilities use agreement, either school may use the others' facilities when a class is over a certain size. The 6363 Sunset location is used primarily, but not exclusively by LAFS. The Vice President of Education for both LAFS and LARS, and the CEO have offices at both 6363 Sunset and 6690 Sunset. LAFS occasionally uses the classroom space in 6690 Sunset. Both schools share the classroom and lab space at 6353 Sunset.

With respect to classes and faculty, while generally separate, students of both schools all enroll in the Film Sound class. Furthermore, the faculty of LAFS and LARS are interchangeable on an as-needed basis.

The schools have applied to make LARS a branch of LAFS. Moreover, LAFS represents to the public that LARS is a branch of LAFS, and LARS represents to the public that it is a branch of LAFS. Holding ostensibly separate companies out to the public that they are in fact one company is evidence of interrelation of operations. See *Paint America Services.*, 353 NLRB No. 100 at 19 (2009) (holding out to public that companies are a single employer evidence of absence of arm's length relationship).

The schools share many common administration departments that govern the day-to-day operations of the schools: Admissions; the Business Office; Financial Aid; Operations; Human Resources; the IT Department; Student Services; Career Development; and the Purchasing Department. In addition, there are weekly management meetings held at 6363 Sunset attended by management of both schools. Common management governing day-to-day matters is strong evidence of single employer status. *Mine Workers (Boich Min. Co.)*, 301 NLRB at 974 (1991).

The Employer asserts that there can be no interrelation of operations for the purposes of single employer analysis where the two entities are separate corporate entities and are treated differently for the purposes of payroll. The Employer cites *Novato Disposal Services, Inc.*, 328 NLRB 820, 823 (1999) for the foregoing proposition. This case is not on point. Again, the issue in the case was not whether the entities were single employers, but rather, whether the petitioned-for unit was an appropriate unit for bargaining. *Id.* The Employer's reliance on *Dow Chemical Co.*, 326 NLRB 288, 289 (1998) is also misplaced. In *Dow Chemical Co.*, the Board found a lack of interrelation of operations where one of the entities was a commercial supplier of chemicals and the other was a retailer of chemicals, some of which the first entity supplied to it.

*Id.* at 289. The Board considered this relationship of the entities to be *indicative* of interrelation of operations, but other countervailing considerations prevented the Board from finding an interrelation of operations. *Id.*

c) Centralized Control of Labor Relations

Mere potential for control of labor relations is not a factor accorded weight by the Board; rather actual or active control over day-to-day labor relations is significant. *Beverly Enterprises*, 341 NLRB 296, 306 (2004). The Board has held that this factor is particularly significant in deciding single-employer status. *Id.* “Commonality of provisions in policies and procedures manuals is compelling evidence of centralized control of labor relations.” *Id.* Here, each school has a separate handbook, but the language in both appears to be identical. This handbook, by its own terms, governs the terms and conditions of employment. The health benefits appear to be identical, and the same Human Resources Department processes these benefits. Sick leave and vacation benefits are the same, as are holidays and compensatory time off. According to the handbooks, employees of both schools are subject to the same policies regarding workplace conduct. The Human Resources Department produced both handbooks, and distributed them to all new employees of both schools.

There are additional facts that also point towards centralized control of labor relations. The Business Office submits payroll for both schools to the same third-party vendor. Grievances are handled by the same Human Resources Department, and employee evaluations are conducted at similar intervals, using the same form generated by Human Resources. With respect to hiring, the VP of Education and the CEO must approve all new hires for both LAFS and LARS. These factors evidence centralized control over labor relations.

d) Common Ownership or Financial Control

The evidence shows that LAFS and LARS are owned by separate entities and have no direct owners in common. It is unclear from the record whether there is any indirect common ownership or financial control. LAFS, which was founded in 1998, was owned by the CEO and that individual’s spouse. In about 2003, the CEO and other investors purchased an entity named the Los Angeles Recording Workshop, which later became LARS. The record is unclear as to the identity of these other investors, or whether the CEO retains any ownership interest in either LAFS or LARS.

Assuming that there is no common ownership or financial control, it would not affect my determination in this case. No single aspect of the four-factor test is controlling, and all four factors need not be present to find single-employer status. Instead, the ultimate determination turns on the totality of the evidence in a given case. *Dow Chemical Co.*, 326 NLRB 288, 288 (1998). It is well established that common ownership is less important in making a single employer determination than the other three factors. *Airport Bus Service*, 273 NLRB 561, 561 (1984), citing *Radio Union v. Broadcast Service*, 380 U.S. 255 (1965). The Board has found single-employer status in the absence of common ownership. See *Asociacion Hospital Del Maestro Inc.*, 317 NLRB 485, 535 (1995) (single-employer status found in absence of evidence of common ownership); *Bryar Construction Co.*, 240 NLRB 102, 104 (1979) (where other three factors present, absence of common ownership did not preclude finding of single-employer status). Under the totality of the circumstances, I find that LAFS and LARS share common management, have an interrelation of operations and a centralized control of labor relations.

### **3. Conclusion Concerning Single Employer Status of LAFS and LARS**

Based on the above, I find that LAFS and LARS are a single employer.<sup>19</sup>

#### **C. Appropriateness of a Multi-Facility Unit**

The Employer asserts that even if LAFS and LARS are found to be a single employer, a single unit would nevertheless be inappropriate. I find, for the reasons set forth below, that the petitioned-for single unit is an appropriate unit.

The Board recognizes that there is more than one way in which employees may be appropriately grouped. The Board's declared policy is to consider only whether the unit requested is *an* appropriate one, even though it may not be the optimum or most appropriate unit for collective bargaining. *Overnite Transportation*, 322 NLRB 723, 723 (1996), citing *Black & Decker Mfg. Co.*, 147 NLRB 825, 828 (1964). A union therefore, is not required to request representation in the most comprehensive or largest unit of employees of an employer, unless an appropriate unit compatible with the requested unit does not exist; nor is it compelled to seek a narrower appropriate unit if a broader unit is also appropriate. *Id.* In determining an appropriate unit in a representation case, the Board first considers the unit requested by the union (petitioned-

---

<sup>19</sup> Because I find that LAFS and LARS are a single employer, I do not reach the issue of whether they are joint employers.

for unit) and whether the unit is appropriate. *Overnite Transportation*, 322 NLRB 723 (1996), citing *P.J. Dick Contracting*, 290 NLRB 150, 151 (1988). It is only when the petitioned-for unit is not appropriate that the Board may consider an alternative proposal. *Id.*

In determining whether a petitioned-for multi-facility unit is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. *Alamo Rent-A-Car*, 330 NLRB 897, 897 (2000).

### **1. Employees' Skills and Duties**

The Employer asserts the employees of LAFS and LARS have different skills and duties because the LARS employees tend to be “generalists” and LAFS employees tend to be “specialists.” LAFS requires a minimum of four years of professional experience and a degree equivalent to or higher than an Associate of Science. LARS employees teach recording; LAFS instructors teach film industry related areas of study. Despite the apparent differences asserted by the Employer, the employees of LAFS and LARS share several similar skills and duties. Both LAFS and LARS have Course Directors who are responsible for developing the curriculum of their course, creating syllabi, lesson plans, materials and tutorials. Both LAFS and LARS Course Directors order materials for their classes, such as textbooks and other recurring course items, and both LAFS and LARS Course Directors request capital purchases. Both meet with the Program Directors and the VP of Education in weekly management and faculty meetings. LAFS and LARS Course Directors coordinate with other Course Directors to ensure integration of curriculum, so that there is no redundant curriculum and no gaps in the curriculum. Both teach month long courses. Though LARS only has Instructors and no Industry Specialists and LAFS has both, the evidence establishes that the Instructor and the Industry Specialist position are equivalent, and only different in name. Moreover, the petitioned-for employees of LAFS and LARS are all teachers whose mission it is to educate students in various media-related fields. Accordingly, I find that this factor points towards the appropriateness of a multi-facility unit.

### **2. Terms and Conditions of Employment**

The Employer asserts that the employees of LARS and LAFS have different terms and conditions of employment because the schools operate on different schedules; have different pay

rates and hiring qualifications; operate on different academic calendars; and have different health insurance premiums. Additionally, many of the employees at LAFS have their own offices, whereas the employees of LARS share offices. Nevertheless, as set forth more fully in Section V B.1.c. above, the evidence shows that the LAFS and LARS employees share almost identical terms and conditions of employment. Accordingly, I find that this factor points towards the appropriateness of a multi-facility unit.

### **3. Employee Interchange**

The evidence shows that there is an interchange of employees between LAFS and LARS. The faculty of LAFS and LARS teach each other's courses on an as-needed basis. This sort of interchange, on an as-needed basis, appears to be of a temporary nature. The Board considers temporary transfers to be more indicative of multi-facility integration than permanent transfers. *Red Lobster*, 300 NLRB 908, 911 (1990). Accordingly, I find that this factor points towards the appropriateness of the petitioned-for multi-facility unit.

### **4. Functional Integration/Geographic Proximity/Centralized Control of Management and Supervision**

As set forth in Section V.B.1.a. and b. above, LAFS and LARS clearly have a functional integration of operations, close geographic proximity, and centralized control of management and supervision. As to geographic proximity, I note that LAFS and LARS share three out of the four buildings described above. These buildings are all within a half mile of each other and 6363 Sunset and 6353 Sunset are adjacent buildings on the same street. Accordingly, I find that functional integration, geographic proximity, and centralized control of management and supervision all point towards the appropriateness of the petitioned-for multi-facility unit.

### **5. Bargaining History**

The parties have no history of collective bargaining. Where all other factors indicate that the multi-facility unit is appropriate, the lack of a history of collective bargaining is irrelevant. See *Alamo-Rent-a-Car*, 330 NLRB 897 (2000) (in finding a wall-to-wall unit of all employer facilities appropriate where all other factors favor of multi-facility unit, lack of collective bargaining history not even mentioned in the analysis).

### **6. Conclusion Concerning the Appropriateness of a Multi-Facility Unit**



In the instant case, the employees of LAFS and LARS share similar job duties and skills. Moreover, their terms and conditions of employment are governed by what appears to be an identical employee handbook that by its own terms governs the terms and conditions of employment. In addition, not only are the two facilities located in the same metropolitan area, they are located in within a half mile of each other, and they share another facility, 6353 Sunset, that is directly adjacent to the main LAFS location at 6363 Sunset. Finally, at LAFS and LARS, the supervisors of each location, the Program Directors, all report to the same centralized management, the VP of Education, and ultimately, the same CEO. Under such circumstances, a multi-facility unit is an appropriate unit. See *Alamo-Rent-A-Car*, 330 NLRB at 897-898 (wall-to-wall unit including all petitioned-for job classifications in all of the employer's facilities appropriate where employees shared similar job duties and skills; were subject to same terms and conditions of employment under identical employment contracts; employer's facilities were functionally integrated and within close geographical proximity; and supervisors of each location reported to common centralized management).

Based on the above, I find that the petitioned for multi-facility unit to be an appropriate unit.

**D. Supervisory and/or Managerial Status of Course Directors and the Assistant to the Head of Production**

**1. Background and Facts Common to all Course Directors**

a) In General

Most of the Course Directors work for LAFS, which has about 34 Course Directors. There are only about 7 Course Directors at LARS. The Course Directors can be divided into two categories: Course Directors with direct reports, and Course Directors without direct reports. By direct report, it is meant that the Course Director has Industry Specialists and/or Instructors and Associate Course Directors working beneath him or her. None of the Course Directors at LARS have direct reports. At LAFS, the Film Program is the only program in which the Course Directors have direct reports. Thus, none of the Course Directors in the Computer Animation Program, Games Production Program, the Recording Arts Program, or the General Education Program have direct reports. Further, at least three of the Course Directors in the LAFS Film Program do not have direct reports.

All Course Directors are generally responsible for overseeing one or more courses to which they are assigned. Each course is a month in duration. The Course Directors are recruited and hired by the Program Directors in their respective programs and report directly to them. Course Directors have a great degree of autonomy regarding day-to-day operations of their courses. They are responsible for developing the curriculum of their courses, creating syllabi and lesson plans, selecting textbooks, selecting and creating course materials and handouts, requesting and recommending purchases for the course, preparing budgets for the course, grading and counseling students, attending meetings, and taking part in the Open House. Course Directors work with the employee known as the Scheduler to schedule courses and to make sure rooms and equipment in lab spaces are available.<sup>20</sup> Course Directors without direct reports teach all components of the course: generally lectures and labs. Course Directors with direct reports divide teaching duties between themselves and their Industry Specialists and Instructors.

Some Course Directors are salaried employees, others are hourly. Some have offices, and some have cubicles. All full-time Course Directors, after passing a 90-day probationary period, become eligible to receive benefits. All Course Directors remain at-will employees; neither school offers tenure.

b) Budgets and Materials<sup>21</sup>

Course Directors are discouraged from making purchases on their own and then asking for reimbursement. For recurring course materials, the procedure is that the Course Director emails or speaks to his Program Director and makes a request. If the request is within budget, it usually will be approved and purchased. Course Directors generally request materials for their course for recurring course materials using an automatic ordering system. Course Directors can also request capital purchases by directly emailing the VP of Operations. Ordinarily, the VP of Operations approves the request, if it is within budget. If it is outside the budget, the VP of Operations will contact the requester and discuss it. Ultimately, the CEO must approve all capital purchases.

c) Curriculum Development/Grading Criteria

---

<sup>20</sup> The record does not reflect the details of the scheduling process.

<sup>21</sup> The record is unclear as to whether Course Directors in General Education make purchases or have any responsibility for course budgets.

Course Directors decide the guidelines for assessing students within the schools' overall grading policy, which is a letter grade format.<sup>22</sup> Although every course is different, the Course Directors determine the criteria used to determine what constitutes an A, B or C within the particular course they are teaching and decide which criteria are most important. For example, the Course Director for Film Production II created a rubric with different areas of assessment and assigns relative weight to each area. Similarly, the Course Director for Film Theory created his own rubric for assessing his students, assigning relative weight to three different areas of assessment.

Although Course Directors are responsible for developing the curriculum of their courses, Course Directors are required to submit their lessons plans and course materials to their Program Director for approval. The Program Director has the authority to make changes as he sees fit. For example, the Program Director of the Film Program reads the lesson plans and course materials in detail to make sure they are in compliance with the accreditation requirements and integrated with the rest of the program. Course Directors also on occasion submit lesson plans directly to the VP of Education, who reviews them for substance and has the authority to overrule them or make changes. Course Directors may be required to confer with their Program Director before they make any changes to the content of the courses, if there are problems with students, if equipment is needed, and any time they want help with something. Some Course Directors develop their lesson plans on their own; others develop them in collaboration with their Industry Specialists and Instructors.

Course Directors in each program work together to ensure that the curriculum is integrated, so that there are no gaps in the content from one course to another and that the curriculum is not redundant. The Course Directors have the authority to call in guest lecturers to their classes.

Course Directors meet on a regular basis within each degree program with the Program Director, sometimes weekly, sometimes bi-weekly. The VP of Education has participated in these meetings, at which there is discussion of budgets, curriculum, and attendance and grading policy. The Program Director leads the meeting and prepares an agenda for them.

---

<sup>22</sup> The record does not identify who developed the overall grading policy.

## **2. Supervisory Status of Course Directors with Direct Reports**

As stated above, the Course Directors with direct reports work only in the Film Program at LAFS. None of the Course Directors in the other Programs at LAFS have direct reports. Similarly, none of the Course Directors at LARS have direct reports.

It is unclear from the record whether there are approximately 13 or 23 Course Directors in the Film Program; however, it is clear that all but three of the Course Directors in the Film Program have direct reports. The Program Director for the Film Program interviewed and hired the Course Directors in the Film Program. According to him, he looked for individuals to fill these positions who had managerial, administrative and team building skills. Specifically, he looked for the ability to schedule employees, recruit, train, oversee, discipline and terminate staff. The Program Director for the Film Program testified that the Course Director is the “captain of the ship.” The Course Director must rely on his staff of Instructors and Industry Specialists to assist in running the course. For example, a Course Director may not have all of the skills or experience necessary to teach the course, so he must recruit Industry Specialists and Instructors to help him both teach the course and also develop the course curriculum. Also, enrollment in the Film Program courses is very high, so it might be physically impossible for the Course Director to teach the entire course without the aid of Industry Specialists and Instructors.

### **a) Case Law Regarding Supervisory Status**

The Board recognizes that it must not construe supervisory status too broadly because employees who are deemed to be supervisors are denied rights provided to employees in the Act. *Regal Health and Rehab Ctr., Inc.*, 354 NLRB No. 71, slip op. at 6 (2009). Thus, the party asserting supervisory status carries the burden of proving supervisory status. *Id.*, slip op. at 6. Any lack of evidence in the record is construed against the party asserting supervisory status. *Regal Health and Rehab Ctr., Inc.*, slip op. at 17. Moreover, “purely conclusory” evidence is not sufficient to establish supervisory status; rather a party must present evidence that the employee “actually possesses” the Section 2(11) authority at issue. *Avante at Wilson, Inc.*, 348 NLRB 1056, 1057 (2006).

Section 2(11) of the Act defines the term supervisor as follows:

Any individual having authority, in the interest of the employer, to hire, transfer, suspend,

lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

As emphasized by Congress, only truly supervisory personnel vested with “genuine management prerogatives” should be considered supervisors, and not “straw bosses, leadmen, setup men and other minor supervisory employees.” *East Buffet and Restaurant, Inc.*, 352 NLRB 975, 991 (2008). An individual will only be found to be a supervisor if his exercise of the supervisory authority is “not of a merely routine or clerical nature, but requires the use of independent judgment” and his authority is held “in the interest of the employer.” See *Regal Health and Rehab Ctr., Inc.*, slip. op. at 6. Finally, an individual “need only possess one of the enumerated indicia of authority in order to be a statutory supervisor” where that authority is “carried out in the interest of the employer and requires the use of independent judgment.” *Starwood Hotels & Resorts Worldwide, Inc.*, 350 NLRB 1114, 1115 (2007).

Applying the criteria set forth in Section 2(11) and relevant Board law, I find that, as explained below, the Employer has established that the Course Directors in the Film Program with direct reports are supervisors within the meaning of Section 2(11). Because I find that the Course Directors in the Film Program with direct reports have the authority to effectively recommend hiring, it is not necessary to thoroughly analyze the rest of the criteria set forth in Section 2(11). Nevertheless, I find that the Course Directors with direct reports also have the authority to assign work, and discipline and evaluate employees within the meaning of Section 2(11) of the Act.

b) Hiring Authority of Course Directors with Direct Reports

i) Facts

The Course Directors in the Film Program are responsible for recruiting Industry Specialists to work on their courses. Generally, the Course Director will advertise in a newspaper or website for the position, or directly recruit individuals he or she knows personally from the film industry; interview the candidates; and determine the criteria used to select candidates. These Film Program Course Directors review resumes and have the discretion to determine the number of interviews per candidate. Most of the time, the Course Director conducts the

interviews himself; in the past two-and-a-half years, the Program Director for the Film Program has only participated in one interview of an Industry Specialist.<sup>23</sup> According to both the VP of Education and the Program Director for the Film Program, the Course Director has the authority to choose the candidate he wishes to hire, so long as it is within budgetary and accreditation limits; he has the authority to make “the final decision” on hiring. The Course Director has discretion to determine the skill sets that are needed for the particular course for which the Course Director is hiring, within the minimum accreditation requirements set by the LAFS accreditation body that an Industry Specialist have at least four years of professional experience and a degree equivalent to an A.S. or higher. After the Course Director completes interviews, he submits a recommendation to the Program Director for budget approval. According to the Program Director for the Film Program, he has a “pattern of practice” to accept the Course Director’s recommendations; he would only conduct a subsequent interview of his own if the Course Director asked for a second opinion. This happens “very infrequently.” The Program Director for the Film Program then submits the recommendation to VP of Education to sign-off. After the VP of Education signs off, the recommendation goes to the CEO to sign. The Program Director and the VP of Education almost always follow the recommendation of the Course Director.

After the Industry Specialist is successfully recommended, an offer letter issues. The Employer produced several of these offer letters. In general, the letter is a form letter generated by the Human Resources Department and that is signed by CEO, the COO, the employee being hired, and the Course Director. The letter describes the terms of employment, the position, compensation and benefits, and specify that it is at-will employment. The letter also states that the employee will be “reporting to” the particular Course Director who made the recommendation.

The Course Directors for the Advanced Production course, the Film Production II course, the Film Theory course, and the Production Design and Art course testified about their experiences in recruiting, interviewing and recommending applicants for employment. The record establishes that these individuals evaluate the qualifications of applicants and make hiring

---

<sup>23</sup> The last time a Course Director hired an Industry Specialist was over a year ago. There has been no need to hire an Industry Specialist since that time.

recommendations that are accepted without further interview or investigation. In fact, the Course Director for Film Production II was told by the Program Director for the Film Program and by the VP of Education that he would have “autonomous control over the hiring.” The record revealed only one instance where a recommendation for hire by a Course Director was denied and that recommendation was turned down on the grounds that the applicant “wouldn’t fit into the salary range.”

ii) Analysis

While the evidence shows that only the VP of Education and the CEO have the final authority to hire, based on the above facts, it is clear that the Course Directors in the Film Program with direct reports have the authority to effectively recommend the hire of employees and that they use independent judgment in making these recommendations. The Employer has met its burden in showing that the Course Directors with direct reports recommend the hire of employees using independent judgment that is not merely of a clerical or a routine nature. Judgment is independent where it is free from the control of others; involves a judgment that requires forming an opinion or evaluation by discerning and comparing data; or involves a degree of discretion that rises above the routine or clerical. *Oakwood Healthcare, Inc.*, 348 NLRB 686, 693 (2006). Several Film Program Course Directors with direct reports provided specific testimony regarding their recruitment, interviewing and assessment of applicants. These Course Directors selected applicants to interview, conducted multiple interviews if necessary, evaluated resumes, qualifications, prior work samples, references and prior history in the industry. Using their own judgment, free from the control of others, they then made recommendations based on which candidates they thought would be a good fit for the course. The issue is then whether these Course Directors with direct reports have the authority to “effectively” recommend the hire of employees. In the context of hiring, in order for a recommendation to be “effective,” the Board looks to see whether the putative supervisors conduct interviews of applicants alone without any other superiors present and whether any review of the recommendations consists of more than merely reviewing applications. *Donaldson Brothers Ready Mix Inc.*, 341 NLRB 958, 962 (2004). Here, the evidence establishes that the Film Program Course Directors with direct reports conduct interviews of applicants alone without superiors present. The only time the Course Director’s superior would interview the candidate is if the Course Director asked for a second opinion. This has only happened once in

the past two-and-a-half years. The evidence establishes that the Program Director of the Film Program and the VP of Education almost invariably follow the recommendations of the Film Program Course Directors with direct reports. Their review of the recommendations is limited to whether the recommendations are within budget. In the past two-and-a-half years, only one recommendation has been turned down, and this was based on the fact that the candidate's salary demands were outside the budget. Thus, the Course Directors with direct reports recommendations are "effective."

The Petitioner asserts that the amount of time the Course Directors spend on interviewing and hiring is too sporadic to constitute the authority to effectively recommend hires within the meaning of Section 2(11). Specifically, the Petitioner notes that the Course Director for Production Design and Art last recommended the hire of an employee in August 2008; similarly, the Course Director for Advanced Production spent a total of ten hours in 2009 interviewing and recommending hires and the Course Director for Film Production II last hired employees in January 2009. The Petitioner relies on three cases, *Robert Greenspan DDS.*, 318 NLRB 70, 76 (1995); *E & L Transport Co.*, 315 NLRB 303, footnote 2 (2984); and *Gaines Electric*, 309 NLRB 1077, 1078 (1994) in support of its assertion.

The fact that the Course Directors may have infrequently engaged in hiring functions can easily be explained when viewed in context. The evidence shows that about two-and-a-half years ago, LAFS switched from a certification program to a degree program and the Course Director position was created. During the transition period, hiring of Industry Specialists was frequent. The new Course Directors recruited, interviewed, and recommended the hiring of their Industry Specialists during 2008 and the very beginning of 2009. As of the date of the hearing, there had not been any hires in the Film Program since the beginning of 2009, because student enrollment has not warranted hiring any more Industry Specialists. Thus, the fact that the Course Director for Production Design and Art last recommended the hire of an employee in August of 2008 is attributable to the fact that there has not been a need for any new hires; likewise, the fact that the Course Director for Advanced Production only spent 10 hours in 2009 hiring and that the Course Director for Film Production II last hired an employee in January 2009 also is easily explained. Around January 2009, hiring in the Film Program stopped.



The Petitioner's cases can easily be distinguished. In *Robert Greenspan*, the evidence showed that dentists on four occasions effectively recommended to the employer to transfer their dental assistants to another dentist. *Robert Greenspan, DDS*, 318 NLRB at 70. The ALJ noted that these recommendations were activities that were "incidental and extraordinary exceptions" to dental practice. *Id.* at 76. Here, when viewed in context, the evidence establishes a pattern that Course Directors regularly interview and recommend the hire of Industry Specialists whenever there is a need to hire. Hiring recommendations of Industry Specialists are not merely an "incidental and extraordinary exception" to the Course Directors job; rather, the evidence shows that it is an integral part of their job. Both the VP of Education and the Program Director of the Film Program testified that the Course Director is responsible for recruiting, interviewing and hiring the Industry Specialists that he oversees, and four Course Directors each testified that they recommended the hire of multiple Industry Specialists to work on each of their own courses. Similarly, *E & L Transport* involved dispatchers who occasionally issued warnings. 315 NLRB at fn 2. Again, here, we do not have a situation where hiring is sporadic; rather, the evidence establishes a pattern that the Course Directors hired whenever the need hire arose, recommending the hire of at least 14 Industry Specialists and Associate Course Directors during 2008 and the beginning of 2009. *Gaines Electric*, 309 NLRB 1077, 1078 is not on point at all. That case involved a completely different issue: whether an employee who spent part of his time working in a supervisory position and part of his time working in a nonsupervisory position spent a "regular and substantial" portion of his time working in the supervisory position. *Id.* Here, there is no evidence that the Course Directors switch positions, so the case is inapposite.

### iii) Finding

Based on the above, I find that the Course Directors with direct reports have the authority to effectively recommend hiring.

### c) Authority of Course Directors with Direct Reports to Assign Work

#### i) Facts

The Course Director determines the hours of the Industry Specialists and Instructors reporting to him or her, depending upon various factors, such as the facility, and "whatever is best for situation." For example, the Course Director for Film Production II teaches a course that uses a sound stage that he keeps open 12 hours a day, 5 days a week. He schedules his Industry

Specialists to cover that time, depending upon what skills he thinks are needed for the day, such as the Industry Specialist who knows more about lighting or Industry Specialist who knows more about cameras. Similarly, in the lab portion of the Film Production II course, the Course Director for Film Production II can direct his Industry Specialists to work either a 10:00 a.m. to 6:00 p.m. schedule or a 12:00 p.m. to 8:00 p.m. schedule, depending upon whether he thinks his students will be more or less efficient for the day. Moreover, the Course Director for Film Production II also makes work assignments to his staff using his discretion, taking into account skills, experiences, special abilities and their relationship with a particular group of students.

In the Film Program, Course Directors with direct reports submit instructor hours and lesson plans to the VP of Education, who has the power overrule them or make changes.<sup>24</sup> Also in the Film Program, the Course Directors schedule classes “in cooperation with the scheduling manager.” It up completely up to the Course Director to decide who is going to teach the varying components of each class. If a Course Director’s Industry Specialist is going to be out for a day, the Course Director, without approval from the Program Director, can decide how to cover that class. For example, the Course Director has the authority to ask another Course Director to bring in another teacher to teach a specific class, and the Course Director could assign one of his staff to teach in another Course Director’s class on an as-needed, temporary basis. Course Directors give instructions to their Industry Specialists by providing them with lesson plans that the Course Director has developed and by giving verbal and written instructions.

## ii) Analysis

In *Oakwood Healthcare, Inc.*, 348 NLRB 686 (2006), the Board defined “assign” to mean “designating an employee to a place (such as a location, department, or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e. tasks to an employee. The Board explained that assigning an employee to a department (e.g., housewares), shift (e.g., night), or certain significant overall duties (e.g., restocking shelves), qualifies as “assigning” work under the Board’s definition, but choosing the order in which employees perform discrete tasks within those assignments (e.g., restocking toaster before coffeemakers) is not indicative of exercising the authority to assign.

---

<sup>24</sup> The record does not reflect how often Course Directors make these submissions to the VP of Education, or whether the VP of Education has actually exercised his authority to make changes in this respect.

The evidence establishes that the Course Directors with direct reports “assign” work to the employees that they oversee because they appoint employees to a time and because they give significant overall duties to the employees they oversee. The evidence also establishes that the Course Directors “assign” work using independent judgment. The Course Directors determine the hours of their Industry Specialists, using their discretion. For example, the Course Director for Film Production II selects which of his Industry Specialists will cover the sound stage for the day, depending upon what skills he thinks are needed. In making work assignments, the Course Director for Film Production II takes into account individual skills, experience, special abilities and the particular Industry Specialist’s relation with a particular group of students. The evidence establishes that by the use of lesson plans and course tutorials the Course Directors create on their own, they assign the curriculum that their Industry Specialist will teach to students.

iii) Findings

Based on the above, I find that the Course Directors with direct reports have the authority to assign work.

d) Authority of Course Directors with Direct Reports to Evaluate and Discipline

i) Facts

Course Directors with direct reports are responsible for evaluating their staff. There are formal and informal evaluations. Informally, the Course Directors and their staff work side-by-side, so the Course Director is able to constantly assess performance based on day-to-day observations. Formally, there are annual written evaluations and 90-day probationary evaluations. As to annual evaluations, the policy is that Course Directors annually review their Industry Specialists and Instructors and prepare a written evaluation.<sup>25</sup> As to 90-day probationary evaluations, the Course Director conducts a written evaluation of newly hired employees after a 90-day probationary period. The Human Resources Department generates the form. The Course Director then fills it out, checking one of three boxes, indicating (1) whether performance is satisfactory and the probationary period is complete; (2) performance is not satisfactory and the probation period is extended by one month; or (3) the employee has been unsuccessful and employment is terminated. The form also calls for the Course Director’s comments. Once the

---

<sup>25</sup> The Employers did not produce at the hearing any written annual evaluations.

employee passes probation, he or she is entitled to full benefits. These forms are signed only by the Course Director and the Industry Specialist being evaluated. The Program Director of the Film Program relies on the recommendations made in the 90-day probation evaluations.

Course Directors can give various types of discipline to Industry Specialists: informal admonitions, formal verbal warnings and written warnings. A Course Director has the authority to issue a written warning without any supervisor, such as the Program Director, reviewing it. There is a progressive disciplinary system, according to which there is a first warning, a second warning, and a third warning that might result in termination. The Course Director of Advanced Production testified about specific instances when he disciplined Instructors for being late. Similarly, the Course Director of Film Production II testified about specific instances when he exercised his authority to issue disciplinary warning notices.

#### ii) Analysis

The Board has found that the authority to “evaluate” is not one of the indicia of supervisory status set out in Section 2(11) of the Act. *Willamette Industries*, 336 NLRB 743, 744 (2001), citing, *Elmhurst Extended Care Facilities*, 329 NLRB 535, 536 (1999) (holding that the individuals did not exercise supervisor authority in reporting employees’ infractions to management, who made the final decision as to whether employee discipline was warranted). Accordingly, “when an evaluation does not, by itself, affect the wages and/or job status of the employee being evaluated, the individual performing such an evaluation will not be found to be a statutory supervisor.” *Elmhurst Extended Care Facilities*, 329 NLRB at 536. As to the annual evaluations and the informal day-to-day evaluations, there is no evidence that these evaluations affect the wages and/or job status of the employees being evaluated. As to the 90-day probationary evaluations, the evidence does show that these evaluations do affect wages and/or job status. Depending upon which box the Course Director checks, the Industry Specialist either passes probation and is entitled to full benefits, must wait another month to see whether he passes probation, or does not pass probation and his employment is terminated. Although the evidence does not contain an instance where an Industry Specialist did not pass the probationary period, all of the employees who did receive a passing evaluation then became full-time employees entitled to benefits. The Course Directors also complete these evaluations using independent judgment. The evidence shows that the Program Director for the Film Program and

the VP of Education have told the Course Directors that they are free to check whatever box that they like; and the Course Directors testified that when they completed the evaluations, they were free to choose whichever box to check that they wanted, using their own discretion. Moreover, the evidence establishes that these evaluations are the sole work product of the Course Director doing the evaluation. The evidence shows that the evaluations are conducted only by the Course Director who is doing the evaluating, and the forms are signed only by the Course Director and the employee being evaluated. The Board considers whether evaluations are the sole work product of the putative supervisor in determining whether evaluations indicate supervisory status. *Vencor Hospital Los Angeles*, 329 NLRB 1136, 1140 (1999). The Program Director of the Film Program relies upon the recommendations made in these evaluations and the evidence shows that all four employees who received passing evaluations became full-time employees entitled to benefits.

I also find the Employer has established that the Course Directors have the authority to discipline employees within the meaning of the Act. The evidence establishes that the Course Directors have issued oral and written warnings to employees on several occasions. These warnings, under the Employer's progressive disciplinary policy, can and have lead to future discipline, including termination. When oral and written warnings have any effect on employees' job status or tenure or are part of a progressive disciplinary system, they are an indication of supervisory status. *Willamette Industries*, 336 NLRB 743, 744 (2001).

### iii) Findings

Based on the above, I find that the Course Directors with direct reports have the authority to discipline and evaluate within the meaning of the Act.

## **3. Discussion, Analysis and Findings concerning Course Directors without Direct Reports**

### a) Facts

As noted above, none of the Course Directors at LAFS in the Games Production Program, the Computer Animation Program, the Recording Arts Program, or General Education have direct reports, and three of the Course Directors in the Film Program do not have direct reports. At LARS, none of the Course Directors have direct reports. The Course Directors without direct reports teach all components of their courses. They do not supervise or oversee

any employees. They have no involvement in hiring, discipline, terminations, evaluations, assigning work or any other supervisory functions.

The Computer Animation and Games Production Program are new programs. The Computer Animation Program started in January 2009, and the Games Production Program started in August 2009. Enrollment in both programs is expected to increase and has been increasing. The expectation is that as enrollment increases, the Course Directors in both programs will recruit, interview and hire Industry Specialists, supervise and discipline them, prepare evaluations of them and prepare lesson plans for them. When the Film Program transitioned from a certificate to a degree program, a similar process occurred. Course Directors were hired who, on an as-needed basis, went out and recruited and hired Industry Specialists. Similarly, there is a plan to hire Industry Specialists in the Film Program when enrollment increases.<sup>26</sup> The record is unclear as to whether there are plans to add Industry Specialists to the LAFS Recording Arts Program, General Education at LAFS, or at LARS.

b) Analysis

The Employer concedes that none of the Course Directors without direct reports have ever exercised any of the indicia of supervisory status. The Employer also concedes that these individuals currently do not oversee or supervise any employees. Nevertheless, the Employer asserts that these Course Directors hold a job classification that possesses supervisory authority. The Employer cites *Fred Meyer Alaska, Inc.*, 334 NLRB 646, 650 fn. 8 (2001) for the well-established proposition that possession of authority consistent with any of the indicia of Section 2(11) is sufficient to establish supervisory status, even if the authority has not yet been exercised. However, the Employers fail to address whether the Course Directors without direct reports possess any supervisory indicia in the first place.

A similar situation was presented in *Pepsi-Cola Co.*, 327 NLRB 1062 (1999). In *Pepsi-Cola Co.*, the disputed classification was the account manager. There were two types of account managers: those who had merchandisers assigned to them or on their team, and those who did not. The Regional Director found that of all the account managers, only two had exercised any authority to discharge merchandisers. Therefore, the Regional Director concluded that only those

---

<sup>26</sup> The record is unclear as to whether these Industry Specialists would be added to Course Directors who already have direct reports, or to the Course Directors who currently do not have direct reports.

two were supervisors. The Board reversed the Regional Director, finding that all the account managers who had merchandisers assigned to them or their team had the authority to discharge, but that most of them had merely never exercised that authority. Although the Board found that all the account managers with merchandisers assigned to them or their team were supervisors, regardless of whether they had exercised their supervisory authority, the Board proceeded to find that the account managers without any merchandisers assigned to them or their team did not possess the authority to discharge merchandisers and were not supervisors.

*Pepsi-Cola* is directly on point. Here, we have Course Directors in the Film Program with direct reports. The evidence does not establish that all of these Course Directors have exercised their supervisory authority. Yet, I have found that all of these Course Directors with direct reports are supervisors within the meaning of the Act, regardless of whether they have exercised that authority. However, we have other Course Directors who do not oversee any employees. Just as the Board found that the account managers in *Pepsi-Cola* who did not oversee any merchandisers were not supervisors, I likewise find that the Course Directors without direct reports are not supervisors within the meaning of the Act.

c) Finding

Based on the above, I find that the Course Directors without any direct reports are not supervisors within the meaning of the Act.

**4. Discussion, Analysis and Finding concerning the Assistant to the Head of Production**

a) Facts

At the Hearing, the Employer took the position that the Assistant to the Head of Production is a supervisor. However, in its Post-Hearing Brief, although the Employer states that the Assistant to Head of Production is a disputed classification, the Employers states that “there was no evidence presented at the hearing with respect to the Assistant to the Head of Production.” There is some confusion in the record about the position. On an undated directory of employees for both LARS and LAFS, an individual is listed as Assistant to the Head of Production; however, the Program Director of the Film Program testified that this individual is in fact no longer the Assistant to the Head of Production, and is now listed on personnel records as an Industry Specialist. According to the Program Director of the Film Program, the Assistant to

the Head of Production position does not officially exist. Rather, it is an honorary position bestowed by the Head of Production upon one of his Industry Specialists and it is not an official title, meaning that the Assistant to the Head of Production title was never in “HR records.” According to the Program Director for Film Program, the Assistant to the Head of Production’s duties are “very similar” to those of the Associate Course Director position, except that the Assistant to the Head of Production teaches three courses, and an Associate Course Director would only teach one.<sup>27</sup>

The Employer produced a job description titled “What Celina Reising<sup>28</sup> Does as an ‘Industry Specialist,’” which lists in outline form in great detail the job duties of the individual on a day-to-day basis. The overwhelming majority of this individual’s job duties relate to directly teaching students, such as grading students, reviewing thesis projects, preparing handouts and lesson plans, and scheduling student presentations. The only entry that appears to reflect any potential supervisory status is a single entry reading “Hiring of crew (if needed).” The Assistant to the Head of Production does not receive any extra pay, is unable to access CoAdvantage, unlike the Course Directors, who can, and is listed as an Industry Specialist in the personnel records contained in the CoAdvantage program.

b) Analysis and Finding

The Employer has failed to adduce any evidence that the Assistant to the Head of Production engages in any on the supervisory functions of Section 2(11). On this basis, I find that the Assistant to the Head of Production is not a supervisor and will be included in the unit.

**5. Discussion Concerning whether the Course Directors and the Assistant to the Head of Production are Managerial Employees**

a) Employer’s Position

The Employer asserts that under the Supreme Court’s decision in *NLRB v. Yeshiva University*, 444 U.S. 672 (1980), all of the Course Directors and the Assistant to the Head of Production are managerial employees who must be excluded from the unit. Specifically, the

---

<sup>27</sup> The parties stipulated that the Assistant Course Director position is a unit position.

<sup>28</sup> Celina Reising is the individual who currently holds the title of Assistant to the Head of Production.



Employer asserts that the Course Directors collaborate with the Scheduler to determine how their courses will be scheduled and what hours the Industry Specialists will work; that the Course Directors have full discretion with respect to the content of their courses and the teaching methods that they use; and that they determine the criteria upon which their students are to be graded and assign grades. Moreover, the Employer asserts that the Course Directors set classroom conduct standards. Furthermore, the Employer asserts that the Course Directors play a role in nonacademic matters such as hiring and budgetary matters. The Employer advances no arguments as to why the Assistant to the Head of Production is a managerial employee.

b) Discussion and Analysis

In *Yeshiva*, the Supreme Court found that faculty members at Yeshiva University were managerial employees who were excluded from coverage under the Act. The Court defined managerial employees as those who “formulate and effectuate management policies by expressing and making operative the decisions of their employers.” *Yeshiva*, 444 U.S. at 682. The Court held that managerial employees “must exercise discretion within, or even independently of, established employer policy and must be aligned with management,” and that they must represent “management interests by taking or recommending discretionary actions that effectively control or implement employer policy.” *Id.* at 683. The Court proceeded to formulate critical areas of inquiry:

The controlling consideration in this case is that the faculty of Yeshiva University exercise authority which in any other context unquestionably would be managerial. Their authority in academic matter is absolute. They decide what courses will be offered, when they will be scheduled, and to whom they will be taught. They debate and determine teaching methods, grading policies, and matriculation standards. They effectively decide which students will be admitted, retained, and graduated. On occasion their views have determined the size of the student body, the tuition to be charged, and the location of a school. When one considers the function of a university, it is difficult to imagine decisions more managerial than these.

*Id.* at 686. The Court further cautioned that “professors may not be excluded merely because they determine the content of their own courses, evaluate their own students, and supervise their own research.” *Id.*

The party seeking to exclude faculty as managerial has the burden of coming forward with evidence necessary to establish the exclusion. *Montefiore Hospital & Medical Center*, 261 NLRB 569, 572 fn. 17 (1982). The Board has emphasized the importance of faculty control or effective control over academic, as opposed to non-academic areas. *Livingstone College*, 286 NLRB 1308, 1314 (1987). The Board has found that faculty can be managerial even though a college's administration is responsible for financial and budgetary decisions, and the faculty does not participate in such decisions. See *Lewis & Clark College*, 300 NLRB 155, 163 (1990).

Several Board cases have applied the Supreme Court's analysis in *Yeshiva* to determine whether college and university faculty members are managerial employees. For example, in *Leymone-Owen College*, 345 NLRB 1123 (2005), the Board found faculty members to be managerial employees where they exercised actual decision-making authority over a sweeping range of academic and nonacademic policy both as a group (by means of a system of faculty governance consisting of faculty committees and a faculty assembly), and on an individual level. Through the faculty committees, the faculty exercised control over all aspects of the curriculum, including approval of changes in education requirements; adoptions of new majors and minors; creation or deletion of courses; approval of changes in course credit hours; approval of major reorganization of curriculum areas; approval of educational programs or innovations; approval of any cross-divisional interdisciplinary programs; academic honors; academic dismissals or suspensions; matriculation standards; admission standards; student discipline; scholarships; and library policies; and accreditation review. On an individual level, the faculty members had complete discretion as to the content of courses, teaching methods, syllabi and textbooks. As to nonacademic areas, the faculty exercised control over tenure, faculty evaluations, hiring, discipline, terminations, layoffs, and financial matters by means of the faculty committees. *Leymone-Owen College*, 345 NLRB at 1129-1130. The Board stressed that the all of the faculty's recommendations were routinely approved by administration. *Id.* at 1131.

In *Livingstone College*, 286 NLRB 1308 (1987), the Board found faculty members to be managerial employees where they exercised substantial authority over the curriculum, degree requirements, course content and selection, graduation requirements, matriculation standards, and scholarship recipients. The faculty members participated in academic governance through membership on various standing committees and faculty-wide votes. The Board placed importance on the fact that faculty recommendations were generally approved and implemented.

The Board placed only limited significance on the fact that the faculty had virtually no input into nonacademic matters such as the budget, tenure decisions, selection of administrations and hiring and firing faculty.

The above cases make clear that the Course Directors at LAFS and LARS and the Assistant to the Head of Production are not managers within the meaning of *Yeshiva*. The evidence establishes that the Course Directors exercise control only over their own individual courses. The Supreme Court has clearly stated that “professors may not be excluded merely because they determine the content of their own courses, evaluate their own students, and supervise their own research.” *Yeshiva*, 444 U.S. at 683. There is no evidence that the Course Directors or the Assistant to the Head of Production exercise decision making control over the curriculum or academic policy as a whole, such as degree requirements, course content and selection, graduation requirements, matriculation standards, and scholarship recipients; approval of any cross-divisional interdisciplinary programs; academic honors; academic dismissals or suspensions; matriculation standards; or admission standards. There is no evidence that the faculty participates in any system of faculty governance consisting of committee or faculty assemblies. There is some evidence that the faculty makes recommendations over some non-academic areas, such as hiring and budget requests. However, “it is the faculty members’ participation in the formulation of academic policy that aligns their interest with that of management.” *University of Dubuque*, 289 NLRB 349, 351(1988). Even with regard to budget requests, the evidence establishes that these requests are often turned down by management.

The Employer relies on *University of Dubuque*, *Livingstone College*, and *American Int’l College*, 282 NLRB 189 (1986) to assert that faculty are managers where they “play a role” and have “input” into nonacademic matters, such as hiring department employees and budgetary matters. These cases do not support the Employer’s position. In each, the Board found critical the fact that the faculty exercised control over overall academic policy and curriculum by means of faculty committees. See *University of Dubuque*, 289 NLRB at 352 (faculty, by means of committees system, had exclusive right to set general student grading and classroom conduct standards, and degree requirements; recommend earned-degree recipients; initiate new degree programs; and develop, recommend, and ultimately approve curricular content and course offerings); *Livingstone College* 286 NLRB at 1310 (faculty members managerial employees where they exercised substantial authority over the curriculum, degree requirements, course

content and selection, graduation requirements, matriculation standards, and scholarship recipients); and *American Int'l College*, 282 NLRB at 201 (“the American International College faculty exercises control over curriculum and academic policy through faculty participation in the various curriculum committees. Furthermore, as a faculty, it has decision-making power over proposals and recommendations of the various faculty standing committees”). There is no such evidence of control of overall academic policy in this case.

The Employers also rely on *University of Dubuque*, to assert that faculty are managers based solely on their right to set classroom policies for their own individual classes. This ignores both the Supreme Court’s admonition in *Yeshiva* that professors are not to be held managers where they merely control their own classes, *Yeshiva*, 444 U.S. at 683, and the fact that in *University of Dubuque* the Board relied heavily on the fact that the faculty had the exclusive right to exercised wide-ranging control over all aspects of academic policy. *University of Dubuque*, 289 NLRB at 352.

#### c) Finding

Based on the above, I find that the Course Directors and the Assistant to the Head of Production are not managerial employees.

### 6. CONCLUSION

Based on the record and for the reasons described above, I conclude: LAFS and LARS are a single employer; the petitioned-for multi-facility unit is appropriate; the Course Directors in the Film Program with direct reports are supervisors within the meaning of the Act and I will exclude them from the unit; the Course Directors without direct reports and the Assistant to the Head of Production are not supervisors within the meaning of the Act and I will include them in the unit; and neither the Course Directors nor the Assistant to the Head of Production should be excluded from the unit as managerial employees.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the Unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by California Federation of

**Teachers.** The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

### **Voting Eligibility**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### **Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the **full** names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by the Region to assist in

determining an adequate showing of interest. The Region shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the NLRB Region 31 Regional Office, 11150 W. Olympic Boulevard, Suite 700, Los Angeles, California 90064-1824, on or before **July 22, 2010**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional office by electronic filing through the Agency's website, **www.nlr.gov**,<sup>29</sup> by mail, by hand or courier delivery, or by facsimile transmission at (310) 235-7420. The burden of establishing the timely filing and receipt of this list will continue to be placed on the sending party. Since the list will be made available to all parties to the election, please furnish a total of **three** copies, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

#### **Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

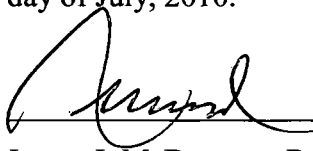
---

<sup>29</sup> To file the eligibility list electronically, go to **www.nlr.gov** and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Regional, Subregional and Resident Offices** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the eligibility list, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, **www.nlr.gov**.

## RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDT on **July 29, 2010**. The request may be filed electronically through the Agency's web site, [www.nlr.gov](http://www.nlr.gov),<sup>30</sup> but may not be filed by facsimile.

**DATED** at Los Angeles, California this 15<sup>th</sup> day of July, 2010.



James J. McDermott, Regional Director  
National Labor Relations Board  
Region 31

---

<sup>30</sup> To file the request for review electronically, go to [www.nlr.gov](http://www.nlr.gov) and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, [www.nlr.gov](http://www.nlr.gov).

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

LOS ANGELES FILM SCHOOLS, LLC,  
d/b/a THE LOS ANGELES FILM SCHOOL  
AND LA FILM SCHOOL

and

LOS ANGELES RECORDING SCHOOL, LLC,  
d/b/a THE LOS ANGELES RECORDING SCHOOL,  
LOS ANGELES RECORDING SCHOOL, AND THE LOS  
ANGELES RECORDING SCHOOL, LLC

A Single Employer

and

CALIFORNIA FEDERATION OF TEACHERS

Petitioner

Case No. 31-RC-8796

DATE OF MAILING July 15, 2010

**AFFIDAVIT OF SERVICE OF: DECISION AND DIRECTION OF ELECTION (\*Also Waiver Forms)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that, on the date indicated above, I served the above-entitled document(s) by postpaid certified mail upon the following persons, addressed to them at the following addresses:

**Served by regular mail:**

\* Ronald J. Klepetar, Esq. **(For the Employer)**  
Baker Hostetler  
12100 Wilshire Boulevard, 15<sup>th</sup> Floor  
Los Angeles, CA 90025

Diana Derycz-Kessler, CEO & President  
L.A. Recording School,  
L.A. Film School  
6690 Sunset Blvd.  
Los Angeles, CA 90028

\* Lawrence Rosenzweig, Esq. **(For the Petitioner)**  
2730 Wilshire Boulevard, Suite 425  
Santa Monica, CA 90403

Peter Nguyen, Field Representative  
California Federation of Teachers  
12028 Centralia Road #201  
Hawaiian Gardens, CA 90716

Subscribed and sworn to before me this 15<sup>th</sup> day  
of July, 2010.

DESIGNATED AGENT

  
NATIONAL LABOR RELATIONS BOARD